

Small Business Administration

§ 126.616

§ 126.612 When may a contracting officer award sole source contracts to a qualified HUBZone SBC?

A contracting officer may award a sole source contract to a qualified HUBZone SBC only when the contracting officer determines that:

(a) None of the provisions of §§ 126.605 or 126.607 apply;

(b) The anticipated award price of the contract, including options, will not exceed:

(1) \$5,000,000 for a requirement within the SIC codes for manufacturing; or

(2) \$3,000,000 for a requirement within all other SIC codes;

(c) Two or more qualified HUBZone SBCs are not likely to submit offers;

(d) A qualified HUBZone SBC is a responsible contractor able to perform the contract; and

(e) Contract award can be made at a fair and reasonable price.

§ 126.613 How does a price evaluation preference affect the bid of a qualified HUBZone SBC in full and open competition?

Where a contracting officer will award a contract on the basis of full and open competition, the contracting officer must deem the price offered by a qualified HUBZone SBC to be lower than the price offered by another offeror (other than another small business concern) if the price offered by the qualified HUBZone SBC is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

Example: In a full and open competition, a qualified HUBZone SBC submits an offer of \$98; another small business concern submits an offer of \$100; and a large business submits an offer of \$93. The lowest, responsive, responsible offeror would be the large business. However, the contracting officer must apply the HUBZone price evaluation preference. If the qualified HUBZone SBC's offer is not more than 10 percent higher than the large business's offer, the contracting officer must deem the qualified HUBZone SBC's price as lower than the price of the large business. In this example, the qualified HUBZone SBC's price is not more than 10 percent higher than the large business's price and, consequently, the qualified HUBZone SBC displaces the large business as the lowest, responsive, and responsible offeror. If the HUBZone SBC offer were \$101, the award would go to the large business at \$93. If the HUBZone SBC

will not benefit from the preference, the preference is not applied to change an offer.

§ 126.614 How does a contracting officer treat a concern that is both a qualified HUBZone SBC and an SDB in a full and open competition?

A concern that is both a qualified HUBZone SBC and an SDB must receive the benefit of both the HUBZone price evaluation preference described in § 126.614 and the SDB price evaluation preference described in 10 U.S.C. 2323 and the Federal Acquisition Streamlining Act, section 7102(a)(1)(B), Public Law 103-355, in a full and open competition.

§ 126.615 May a large business participate on a HUBZone contract?

A large business may not participate as a prime contractor on a HUBZone award but may participate as a subcontractor to an otherwise qualified HUBZone SBC, subject to the contract performance requirements set forth in § 126.700.

§ 126.616 What requirements must a joint venture satisfy to bid on a HUBZone contract?

A joint venture may bid on a HUBZone contract if the joint venture meets all of the following requirements:

(a) *HUBZone joint venture.* A qualified HUBZone SBC may enter into a joint venture with one or more other qualified HUBZone SBCs, 8(a) participants, or WOBs for the purpose of performing a specific HUBZone contract.

(b) *Size of concerns.* A joint venture of at least one qualified HUBZone SBC and an 8(a) participant or a woman-owned small business concern may submit an offer for a HUBZone contract so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(1) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the SIC code assigned to the contract; and

(2) For a procurement having an employee-based size standard, the procurement exceeds \$10 million.

(c) *Performance of work.* The aggregate of the qualified HUBZone SBCs to